

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY OLIVER,
Plaintiff,

v.

SQUARE INC.,
Defendant.

Case No. [19-cv-04110-JSC](#)

ORDER OF SERVICE

INTRODUCTION

Plaintiff, an inmate at the Chatham County Detention Facility in Savannah, Georgia, filed this pro se civil rights complaint against a Square, Inc., a corporation with its principal place of business in San Francisco, California, for violations of the Telephone Consumer Protections Act (“TCPA”), 47 U.S.C. § 277, et seq.¹ Plaintiff’s application to proceed *in forma pauperis* is granted in a separate order. For the reasons explained below, the complaint is ordered served upon Defendant.

STANDARD OF REVIEW

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.* § 1915A(b). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

¹ Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (Dkt. 5.)

1 Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the
2 claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the
3 statement need only give the defendant fair notice of what the . . . claim is and the grounds upon
4 which it rests.” *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although to
5 state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to
6 provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a
7 formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must
8 be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*,
9 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer “enough facts to
10 state a claim for relief that is plausible on its face.” *Id.* at 1974.

11 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a
12 right secured by the Constitution or laws of the United States was violated, and (2) that the alleged
13 violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S.
14 42, 48 (1988).

15 LEGAL CLAIMS

16 Plaintiff’s allegations that Defendant’s agents, without Plaintiff’s consent, sent him a text
17 message advertising its money transferring and depositing application, when liberally construed,
18 state a cognizable claim for relief under the TCPA.

19 CONCLUSION

20 1. The Clerk shall issue a summons and Magistrate Judge jurisdiction consent form
21 and the United States Marshal shall serve, without prepayment of fees, the summons, Magistrate
22 Judge jurisdiction consent form, a copy of the complaint with attachments, and a copy of this
23 order on **Square, Inc.**, in San Francisco, California.

24 2. Defendant shall complete and file the Magistrate Judge jurisdiction consent form
25 within the deadline provided on the form. Defendant shall also file an answer in accordance with
26 the Federal Rules of Civil Procedure.

27 3. To expedite the resolution of this case:

28 a. No later than **91** days from the date this order is issued, Defendant shall file a

1 motion for summary judgment or other dispositive motion. The motion shall be supported
2 by adequate factual documentation and shall conform in all respects to Federal Rule of
3 Civil Procedure 56. If Defendant is of the opinion that this case cannot be resolved by
4 summary judgment, it shall so inform the Court prior to the date the summary judgment
5 motion is due. All papers filed with the Court shall be promptly served on Plaintiff.

6 b. At the time the dispositive motion is served, Defendant shall also serve, on a
7 separate paper, the appropriate notice required by *Rand v. Rowland*, 154 F.3d 952, 953-954
8 (9th Cir. 1998) (en banc). *See Woods v. Carey*, 684 F.3d 934, 940-941 (9th Cir. 2012).

9 c. Plaintiff's opposition to the dispositive motion, if any, shall be filed with the
10 Court and served upon Defendant no later than **28 days** from the date the motion is filed.
11 Plaintiff must read the attached page headed "NOTICE -- WARNING," which is provided
12 to him pursuant to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc).

13 d. Defendant shall file a reply brief no later than **14** days after the opposition is
14 filed.

15 e. The motion shall be deemed submitted as of the date the reply brief is due. No
16 hearing will be held on the motion unless the Court so orders at a later date.

17 4. All communications by Plaintiff with the Court must be served on Defendant or its
18 counsel once counsel has been designated, by mailing a true copy of the document to Defendant or
19 its counsel.

20 5. Discovery may be taken in accordance with the Federal Rules of Civil Procedure.
21 No further Court order under Federal Rule of Civil Procedure 30(a)(2) is required before the
22 parties may conduct discovery.

23 //

24 //

IT IS SO ORDERED.

Jacqueline Scott Corley
JACQUELINE SCOTT CORLEY
United States Magistrate Judge

UNITED STATES DISTRICT COURT
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CERTIFICATE OF SERVICE


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 7, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony Oliver ID: #2019040074
Chatham County Detention Facility
1050 Carl Griffin Drive
Savannah, GA 31405

Dated: August 7, 2019

Susan Y. Soong
Clerk, United States District Court

By: 
Ada Means, Deputy Clerk to the
Honorable JACQUELINE SCOTT CORLEY